

# UNITED STATES DISTRICT COURT

for the  
Western District of North Carolina

United States of America	)	
v.	)	
DWAYNE LEE THOMAS	)	Case No: <u>DNCW108CR000128-014</u>
	)	USM No: <u>22414-058</u>
Date of Original Judgment: <u>July 24, 2009</u>	)	
Date of Last Amended Judgment: <u>N/A</u>	)	<u>Julia Mimms</u>
	)	Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ is reduced to \_\_\_\_\_

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Original Offense Level: <u>29</u>	Amended Offense Level: <u>25</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>III</u>
Original Guideline Range: <u>120 to 135 months</u>	Amended Guideline Range: <u>120 months</u>

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.
- ☒ Other (explain): Because of the statutory minimum, the low end of the guideline range applicable to Defendant is unchanged at 120 months per §5G1.1. Therefore, a sentence comparably less than the low end of the guideline range is the same as the sentence previously imposed, and thus no change is warranted.

### III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated July 24, 2009, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: April 3, 2012

Effective Date: \_\_\_\_\_  
(if different from order date)

  
Martin Reidinger  
United States District Judge

